1 2 3	Michael A. Jaeger William W. Simmons LEWIS BRISBOIS BISGAARD & SMITH LLP Fourth & Blanchard Building 2101 Fourth Avenue, Suite 700				
4 5 6 7	Seattle, WA 98121 Telephone: (206) 436-2020 FAX: (206) 436-2030 Attorneys for Defendant American Family Mutual Insurance Company				
8 9 10 11					
12 13 14	UNITED STATES DISTRICT COURT WESTERN DISTRICT OF WASHINGTON				
15 16 17	Laura Woodward Plair vs.	•	NOTICE OF REMOVAL OF ACTION UNDER 28 U.S.C. § 1441(b) (DIVERSITY)  (Clerk's Action Required)		
18	American Family Mutual Insurance Company,				
19 20	Defe	endant.			
21 22 23 24 25	TO: AND TO: AND TO:	THE CLERK OF THE PLAINTIFF LAURA VASHTON K. DENNIS of record.			
26	PLEASE TAKE NOTICE that Defendant American Family Mutual Insurance Company (American Family), hereby gives notice of the removal of the above-captioned action, Pierce				
27	(American Family),	hereby gives notice of	the removal of the above-captioned action, Pierce		

4832-7766-9655.1 - 1 USDC WD WA CAUSE NO. LEWIS BRISBOIS BISGAARD & SMITH LLP 2101 Fourth Avenue, Suite 700 Scattle, Washington 98121 206-436-2020

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County Cause No. 13-2-12806-9, currently pending in the Superior Court of Pierce County, Washington, to the United States District Court for the Western District of Washington at Tacoma pursuant to 28 U.S.C. § 1441, and in support thereof avers as follows:

- This is a civil action arising out of an insurance dispute, with claims for money 1. damages and exemplary damages. An accurate copy of the Summons is attached as Exhibit 1. An accurate copy of the Complaint is attached as Exhibit 2. An accurate copy of the Amended Complaint is attached as Exhibit 3.
- The initial Complaint was filed on September 9th, 2013 and named Laura 2. Woodward, a resident of Pierce County, Washington as Plaintiff. The initial Complaint named American Family Mutual Insurance Company, a Wisconsin corporation conducting business in the State of Washington, and Eric Blow, a resident of King County, Washington, individually, as Defendants.
- 3. The Insurance Commissioner of the State of Washington was served on September 18th, 2013. An accurate copy of the Insurance Commissioner's Certificate of Service is attached as Exhibit 4.
- 6. On October 18, 2013 American Family entered a notice of appearance on this case with the Pierce County Superior Court. Exhibit 6.
- 7. On October 23, 2013, plaintiff filed an Amended Complaint for Damages in Pierce County Superior Court. Defendant American Family received that Amended Complaint on October 24th, 2013 and filed an Answer soon after. Exhibit 7.
- 8. According to the Amended Complaint (attached as Exhibit 3, Section 2), the only remaining parties to the lawsuit are Plaintiff Laura Woodward and Defendant American Family. The Amended Complaint established diversity when it removed Washington resident Eric Blow as a defendant and leaving only American Family, a Wisconsin corporation, as Defendant.
- This action is a civil action of which this Court has original jurisdiction under 28 9. U.S.C. §1332, and is one which may be removed to this Court by Defendant pursuant to the provisions of 28 U.S.C. §1441(b) because it is a civil action between citizens of different states and the matter in controversy exceeds the sum of \$75,000, exclusive of interests and costs.
  - 10. Removal is permitted under 28 U.S.C. §1446(b)(1), which provides that: The notice of removal of a civil action or proceeding shall be filed within 30 days after the receipt by the defendant, through service or otherwise, of a copy of the initial pleading setting forth the claim for relief upon which such action or

1	proceeding is based, or within 30 days after the service of summons upon the defendant if such initial pleading has then been filed in court and is not required to		
3	be served on the defendant, whichever period is shorter.		
4	The amount in controversy exceeds \$75,000 because the Plaintiff alleges that she was		
5	damaged above and beyond the Arbitration award of \$242,312.32 (see Exhibit 3: Amended		
6	Complaint, page 2, section 1.1).		
7 8	11. Accurate copies of all the records and proceedings in the State Court, including "al		
9	process, pleadings, and orders" served upon defendants, other than the documents mentioned		
10	above, are attached as follows:		
11 12	<ul> <li>a. Exhibit 5: Order Setting Civil Case Schedule;</li> <li>b. Exhibit 6: Notice of Appearance (for American Family Mutual Insurance);</li> </ul>		
13	c. <b>Exhibit 7</b> : Defendant American Family Mutual Insurance's Answer to Amended Complaint.		
14			
15   16	DATED this 21 day of November, 2013		
17	LEWIS BRISBOIS BISGAARD & SMITH LLP		
18			
19	Michael A. Jaeger, WSBA #23166 William W. Simmons, WSBA #35604		
20	LEWIS BRISBOIS BISGAARD & SMITH LLP Fourth & Blanchard Building		
21 22	2101 Fourth Avenue, Suite 700 Seattle, WA 98121		
23	Telephone: (206) 436-2020 FAX: (206) 436-2030		
24	Michael.Jaeger@LewisBrisbois.com William.Simmons@LewisBrisbois.com		
25	Attorneys for Defendant		
26			
27			

1	<u>CERTIFICATE OF SERVICE</u>					
2	I, LISA BLAKENEY, under penalty of perjury under the laws of the State of Washingtor					
3	declare and state as follows:					
4	1. I am a legal assistant with the law firm of	Lewis Brisbois Bisgaard & Smith LLP,				
5	attorneys of record for Defendant herein.	attorneys of record for Defendant herein.				
6	2. I hereby certify that on November 2, 2013, I electronically filed the foregoing					
7	Notice of Removal with the Clerk of the Court using the CM/ECF system which will send					
8	8					
9	notification of such filing to the following:					
10	$\begin{array}{c cccc} \mathbf{p} & \underline{\mathbf{PARTY/COUNSEL}} & \underline{\mathbf{ME}} \\ & \mathbf{Asthon} \ \mathbf{K}. \ \mathbf{Dennis} & \Box \end{array}$	<u> </u>				
11	McLaughlin and Associates, INC	via Legal Messenger via CM/ECF				
12	1 aconia, w A 76407	via Facsimile				
13	(253)476-2653 ADennis@McLaughlinInjuryLaw.com	via Electronic Mail				
14	4	via U.S. Mail				
15	Pfau, Cochran, Vertetis, Amala, PLLC	via Legal Messenger				
16	403 Columbia Street, Suite 500 Seattle, WA 98104	via CM/ECF via Facsimile				
17	7 (253) 203-6747 Loren@PCVALaw.com	via Electronic Mail				
18						
19						
20	DATED THIS day of November 2013, at Seattle, Washington.					
21		suBlaking 1				
22	2 LIS.	A BLAKENEY				
23	3					
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25	5					
26	5					
37	<b>,</b>					

# EXHIBIT 1

# Case 3:13-cv-06005-BHS Document 1 Filed 11/21/13 Page 6 of 50

E-FILED IN COUNTY CLERKS OFFICE PIERCE COUNTY, WASHINGTON

September 17 2018 11 18 AM

KEVIN STÓCK COUNTY CHERK NO: 13-2-12806-9

Strag

# SUPERIOR COURT OF THE STATE OF WASHINGTON IN AND FOR THE COUNT OF PIERCE

LAURA WOODWARD, individually,

NO. 13-2-12806-9

Plaintiff,

SUMMONS

VS.

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AMERICAN FAMILY MUTUAL INSURANCE COMPANY, a foreign corporation, ERIC K. BLOW, individually,

Defendant.

## TO THE DEFENDANT AMERICAN FAMILY MUTUAL INS. CO.:

A lawsuit has been started against you in the above-entitled court by Laura Woodward, Plaintiff, Plaintiff claims are stated in the written complaint, a copy of which is served upon you with this summons.

In order to defend against this lawsuit, you must respond to the complaint by stating your defense in writing, and by serving a copy upon the undersigned attorney for the plaintiff within 20 days after the service of this summons; if you are a foreign insurance company, within 40 days of the service of the Summons upon the Insurance Commissioner if said Commissioner was served pursuant to RCW 48.05 excluding the day of service; 60 days if you are served outside the State of Washington excluding the day of service, or a default

SUMMONS- 1 of 2

McLaughlin & Associates, Inc. 15 Oregon Avenue; Suite 210 Tocoma WA 98409 (220) 476-2651 (253) 476-2298 Fo

# Case 3:13-cv-06005-BHS Document 1 Filed 11/21/13 Page 7 of 50

judgment may be entered against you without notice, excluding the day of service. A default judgment is one where the plaintiff is entitled to what is asked for because you have not responded. If you serve a notice of appearance on the undersigned attorney, you are entitled to notice before a default judgment may be entered. Your Notice of Appearance must include your mailing address and phone number.

If the case has not been filed, you may demand that the Plaintiff file the lawsuit with the Court. If you do so, the demand must be in writing and must be served upon the Plaintiff's attorney signing the Summons. Within 14 days after you serve the demand, the Plaintiff must file this lawsuit within the Court, or the service on you of this Summons and Complaint will be void.

If you wish to seek the legal advice of an attorney in this matter, you should do so promptly so that your written response, if any, may be served on time.

This summons is issued pursuant to Rule 4 of the Superior Court Rules of the State of Washington.

Dated this 11 day of September, 2013

MCLAUGHLIN & ASSOCIATES, INC.

Ashton K. Dennis, WSBA No. 44015 Attorney for Plaintiff

PFAU COCHRAN VERTETIS AMALA, PLLC

Loren A. Cochran, WSBA No. 32773

Attorney for Plaintiff

SUMMONS- 2 of 2

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McLaughtin & Associates, Inc. 15 Oregon Avenue, Suite 240 Tacoma, WA 98409 (253) 476-2651 - (753) 476-2298 Fax

# EXHIBIT 2

# Case 3:13-cv-06005-BHS Document 1 Filed 11/21/13 Page 9 of 50

E-FILED IN COUNTY CLERK'S OFFICE PIERCE COUNTY, WASHINGTON

September 99 2013 3:53 PM

KEVIN STOCK COUNTY CLERK NO: 13-2-12806-9

# SUPERIOR COURT OF THE STATE OF WASHINGTON IN AND FOR THE COUNTY OF PIERCE

LAURA WOODWARD, individually,

No.

Plaintiff,

COMPLAINT FOR DAMAGES

vs.

AMERICAN FAMILY MUTUAL INSURANCE COMPANY, a foreign corporation, ERIC K. BLOW, individually,

Defendant.

COMES NOW Plaintiff Laura Woodward, by and through Ashton K. Dennis and McLaughlin & Associates, and Loren A. Cochran, and Pfau Cochran Vertetis Amala, PLLC, and files this Complaint for Damages against the Defendants, alleging and averring as follows:

## I. INTRODUCTION

1.1 Plaintiff Woodward purchased an automobile insurance policy through American Family Mutual Insurance Company ("American Family"). American Family promised to make Woodward's insurance experience easy and convenient and to ensure there were no unwelcome surprises — especially in her time of need. Unfortunately, in her time of need,

COMPLAINT FOR DAMAGES - Page 1 of 12

MCLAUGHLIN AND ASSOC., INC 15 Oragon Ave., Suite 210 Tacoma, WA 98409 (253) 476-2653; (253) 476-2298 fax

> 29 30

after being struck by an underinsured motorist, she was denied adequate benefits under her policy and all her insurance coverage with American Family, including her homeowner's policy, was ultimately terminated by the insurer. Ms. Woodward was forced to submit to litigation and prior to arbitration was offered absolutely nothing by American Family despite the existence and plain language of her insurance contract. The arbitrator found Ms. Woodward's damages to be \$243,312.32, which is an amount far in excess of the applicable under/uninsured motorist policy.

#### II. JURISDICTION AND PARTIES

- 2.1 Plaintiff Laura Woodward is a resident of Pierce County, Washington.
- 2.2 The defendant, American Family is Ms. Woodward's insurance company and a foreign corporation doing business in Pierce County, Washington. At all times relevant hereto, the defendant insurance company was engaged in the business of insurance in the State of Washington.
- 2.3 Defendant Eric K. Blow is a resident of King County, Washington and, upon information and belief, is an insurance adjuster for American Family.
- 2.4 This court has jurisdiction over the parties and subject matter of this action and venue is proper within this county.

# III. FACTS FORMING THE BASIS FOR RELIEF

3.1 Prior to January 10, 2010, Ms. Laura Woodward and her husband purchased an automobile insurance policy through Defendant American Family Insurance (American Family). Part of the policy, policy number 1976-8368-02-06-FPPA-WA, included personal Medical Expenses Coverage and Under-Insured/Un-Insured Motorist Coverage (UMBI). The

COMPLAINT FOR DAMAGES - Page 2 of 12

policy's effective date ran from December 2, 2009 to June 2, 2010. The policy is attached as Exhibit A to this Complaint.

- 3.2 On January 10, 2010 Ms. Woodward was lawfully operating her vehicle which was covered by the above-referenced auto policy. She was struck by an under-insured motorist and injured. She applied for her personal Medical Expenses benefits as an insured of American Family shortly after the collision.
- 3.3 The motor vehicle collision caused severe and permanent injuries to Ms. Woodward. She required significant medical care which lasted well over a year and totaled more than \$32,000.00.
- 3.4 Defendant Blow was an employee of American Family, assigned to adjust Ms. Woodward's personal Medical Expenses claim for benefits. American Family was required by contract to pay for medically necessary treatment for bodily injury sustained in the January 10, 2010 motor vehicle collision up to \$25,000.00 under Ms. Woodward's personal Medical Expenses coverage. On January 31, 2011, Defendant Blow agreed to pay \$13,313.87 of Ms. Woodward's personal medical expenses, but denied any further coverage despite Woodward's insurance contract with American Family. Three pears after Defendant Blow denied any and all further coverage above the initial \$13,313.87 payment, American Family ultimately agreed that at least \$28,372.94, as referenced in Exhibit B and C, in medical care was medically necessary for the injuries Ms. Woodward suffered in the January 10, 2010 collision. Despite conceding the appropriateness of the services, American Family only paid the remaining \$11,686.13 in reasonable and medically necessary expenses after the arbitration award in excess of Ms. Woodward's coverage limits was determined.

COMPLAINT FOR DAMAGES - Page 3 of 12

- 3.5 In the time that American Family denied Ms. Woodward's claims for personal Medical Expenses under her insurance contract, Ms. Woodward's medical providers filed suit for unpaid balances which should have been paid by American Family. Instead of adhering to its promise, American Family chose not to pay the benefits for which their insured legally contracted. Ms. Woodward's credit was harmed as a direct result of American Family's refusal to pay the medical balances which American Family was required to pay under the insurance contract. .
- 3.6 Ms. Woodward was struck by tortfeasor who held \$50,000.00 in bodily injury liability limits. After making a demand for policy limits, the tortfearsor's insurance company tendered the \$50,000.00.
- 3.7 On August 17, 2011, recognizing the severity and the permanency of her injuries, Ms. Woodward submitted a demand package to American Family which included her medical expenses to date, her medical records, and other supporting documentation. Ms. Woodward demanded American Family tender the policy limits of \$100,000.00 through her UIMBI coverage.
- 3.8 On November 11, 2011, American Family responded to Ms. Woodward's policy limits demand. American Family indicated, "[w]e are willing to waive our Med Expense subrogation in the amount paid of \$13,313.87 but we see no exposure under your clients Underinsured Motorist Bodily Injury Coverage."
- 3.9 On January 25, 2012, American Family was provided with Ms. Woodward's surgical consultation with Dr. Richard Whons. The correspondence indicated Ms. Woodward

COMPLAINT FOR DAMAGES - Page 4 of 12

was in need of cervical surgery. Ms. Woodward again demanded the policy limits of \$100,000.00.

- 3.10 On February 8, 2012, American Family responded to Ms. Woodward's second policy limits demand. American Family indicated its, "... position has not changed regarding a claim under the Under Motorist Bodily Injury part of the policy." American Family denied the policy limits demand. At or about this time, American Family also terminated all of Ms. Woodward's existing insurance contracts with the company including all auto and homeowners' policies.
- 3.11 On March 28, 2012, Ms. Woodward once again demanded the policy limits of her UIMBI coverage.
- 3.12 On June 13, 2012 a voicemail was left with Kim Lovest at American Family requesting a response to the March 28, 2012 letter.
- 3.13 As of June 21, 2012, no response was made to the March 28, 2012 letter or June13, 2012 voicemail and a letter was faxed to American Family requesting a response.
- 3.14 On June 26, 2012, no response had been made to the June 13, voicemail or the June 21, letter and another letter was sent demanding a response.
- 3.15 On August 24, 2012, counsel for Ms. Woodward indicated that she would like to resolve this claim prior to arbitration.
- 3.16 On May 14, 2013, counsel for Ms. Woodward inquired as to whether American Family would be making any payment of benefits prior to arbitration. But, no additional benefits were paid by American Family prior to arbitration.

COMPLAINT FOR DAMAGES - Page 5 of 12

3.17 Prior to arbitration American Family made no other offers or attempts at settlement. Ms. Woodward was eventually awarded \$243,312.32 at arbitration which was significantly higher than the "zero" offer of American Family.

#### IV. CAUSES OF ACTION

## FIRST CLAIM - BREACH OF FIDUCIARY DUTIES

- 4.1 Plaintiff re-alleges and incorporates all facts as detailed above.
- 4.2 Defendant insurance company, American Family, owed fiduciary duties to its insured, Laura Woodward, including but not limited to the duty to promptly investigate any claim, the duty to promptly resolve disputes with its insureds, the duty not to unreasonably increase the costs incurred by its insureds in resolving insurance claims, and the duty not to force insureds to file lawsuits in order to receive benefits.
- 4.3 American Family breached the fiduciary duties owed by repeatedly denying Ms.
  Woodward's appropriate claims for benefits and as a result of the repeated denials, directly and proximately caused damage to Ms. Woodward.

#### SECOND CLAIM - VIOLATION OF CONSUMER PROTECTION ACT

- 4.4 Plaintiff re-alleges and incorporates all facts as detailed above.
- 4.5 The business of insurance, as well as all acts and practices of insurers, agents and attorneys, are subject to the Washington State Consumer Protection Act, RCW 19.86 and subsequent sections.
- 4.5 Washington's Consumer Protection Act requires that all insurers abstain from unfair or deceptive practices or acts.

COMPLAINT FOR DAMAGES - Page 6 of 12

- 4.6 An insurer's breach of its duty of good faith constitutes an unfair business act and gives rise to a cause of action for violation of the WCPA.
- 4.7 As Washington courts have established, insurance claims handling constitutes commerce that impacts the public interest, in the insurance context the insured must simply prove that it was injured by an unfair practice of its insurer in order to establish a WCPA claim.
- 4.8 The defendant, American Family, by and through its agents and employees, has engaged in deceptive and unfair acts and practices, including but not limited to: 1) Failing to acknowledge and act reasonably promptly upon communications with respect to claims arising under insurance policies; 2) Refusing to pay claims without conducting a reasonable investigation; 3) Not attempting in good faith to effectuate prompt, fair and equitable settlements of claims in which liability has become reasonably clear; 4) Compelling insureds to institute or submit to litigation, arbitration, or appraisal to recover amounts due under an insurance policy by offering substantially less than the amounts ultimately recovered in such actions or proceedings; 5) Failing to promptly settle claims, where liability has become reasonably clear, under one portion of the insurance policy coverage in order to influence settlements under other portions of the insurance policy coverage.
- 4.9 Defendant American Family's deceptive and unfair acts and practices as outlined above have directly and proximately resulted in damages to its insured, Plaintiff Laura Woodward.

# THIRD CLAIM -INSURANCE FAIR CONDUCT ACT VIOLATION

- 4.10 Plaintiff re-alleges and incorporates all facts as detailed above.
- 4.11 Defendant American Family's actions and omissions as detailed above and below

COMPLAINT FOR DAMAGES - Page 7 of 12

in refusing to fully honor the terms of Plaintiff Laura Woodward's personal Medical Expenses contract and her UIM/UM contract, an in failing to promptly pay benefits due is in violation of the Insurance Fair Conduct Act ("IFCA").

- 4.12 Defendant has unreasonably denied payments in violation of IFCA.
- 4.13 More than twenty (20) days have elapsed since Plaintiff Laura Woodward through counsel provided written notice of the basis for the cause of action (IFCA claim) to the defendant through its representative legal counsel and to the Office of the Insurance Commissioner as required by law. Defendant American Family has failed to resolve the basis for the action within that time period.
- 4.14 Plaintiff Laura Woodward is entitled to recover all statutory relief including treble actual damages, together with the costs of the action, including reasonable attorney's fees and litigation costs.

# **FOURTH CLAIM - NEGLIGENCE**

- 4.15 Plaintiff re-alleges and incorporates all facts as detailed above.
- 4.16 The defendant insurance company had a contract for insurance with Plaintiff Laura Woodward.
- 4.17 As a result of that contract of insurance, American Family had certain duties to its insured, including the duty to act reasonably and exercise ordinary care. Plaintiff Laura Woodward is an insured of Defendant American Family.
- 4.18 Defendant American Family failed its duties owed to its insured Plaintiff Laura Woodward by failing to act reasonably and exercise ordinary case failing to investigate, and fairly and promptly pay disability benefits and act in good faith towards its insured.

COMPLAINT FOR DAMAGES - Page 8 of 12

4.19 Defendant American Family's breach of its duties directly and proximately caused Plaintiff Woodward's damages.

### FIFTH CLAIM - BREACH OF CONTRACT

- 4.20 Plaintiff re-alleges and incorporates all facts as detailed above.
- 4.21 Defendant American Family issued a policy of insurance which is attached as Exhibit A to this Complaint for Damages.
- 4.22 Plaintiff Laura Woodward fully complied with her obligations and responsibilities under the insurance contract.
- 4.23 Defendant American Family's acts and omissions as detailed above and below are in violation of the express and/or implied terms and conditions of the insurance contract and/or reasonable expectations of its insured to the terms and conditions of the insurance policy.
- 4.24 Defendant American Family is therefore in breach of its insurance contract with its insured, Plaintiff Laura Woodward.
- 4.25 As a direct and proximate result of Defendant American Family's breach of its insurance contract, Plaintiff Woodward has suffered damages.

### SIXTH CLAIM - BAD FAITH

- 4.26 Plaintiff re-alleges and incorporates all facts as detailed above.
- 4.27 Defendant American Family had a duty to Plaintiff to conduct itself in good faith respecting its insurance obligations to Plaintiff Laura Woodward.
- 4.28 Defendant American Family's denial of Plaintiff's demand for full coverage under her personal Medical Expenses Contract, especially in light of its later concessions, and its refusal to offer any benefits under its insured Laura Woodward's UIM/UM policy breached its duty to act

COMPLAINT FOR DAMAGES - Page 9 of 12

McLaughlin and Assoc., INC 15 Oregon Ave., Suite 210 Tacoma, WA 98409 (253) 476-2653; (253) 476-2298 fax

in good faith.

4.29 As a direct and proximate cause of Defendant American Family's breach of its duty of good faith, Plaintiff Woodward suffered damages.

## SEVENTH CLAIM - NEGLIGENCE - ERIC K. BLOW

- 4.30 Plaintiff re-alleges and incorporates all facts as detailed above.
- 4.31 As an insurance adjuster working in Washington State, Defendant Eric Blow owed insurance policy holder Laura Woodward the duty to act reasonably and to exercise ordinary care in investigating Woodward's insurance claims and promptly paying benefits due under her insurance contract.
- 4.32 Defendant Blow breach his duty to act reasonably and to exercise ordinary care by failing to reasonably investigate Plaintiff Woodward's claims, paying less than the amount reasonably due under the policy, and ultimately denying further coverage to the insured, Laura Woodward.
- 4.33 As a direct and proximate result of Defendant Blow's breach of his duty to act reasonably and exercise ordinary care, Defendant Blow's negligence caused damage to Ms.

  Woodward.

#### V. JURY DEMAND

5.1 Under the Washington State Civil Rules, Plaintiffs dernand that this action be tried before a jury.

#### VI. PRAYER FOR RELIEF

WHEREFORE, plaintiff prays for judgment against the defendant:

6.1 That the court will award plaintiff all damages which proximately flow from the

COMPLAINT FOR DAMAGES - Page 10 of 12

McLaughlin and Assoc., INC 15 Oregon Ave., Suite 210 Tecoma, WA 98409 (253) 476-2653; (253) 476-2298 fax

1	III.
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4	DATED this 9 <sup>1/4</sup> day of September, 2013.
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б	MC∐AUGHLIN & ASSOCIATES, INC.
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9	Ashton K. Dennis, WSBA No. 44015
10	Attorney for Plaintiff
11	
12	PFAU COCHRAN VERTETIS AMALA, PLLC
13	
14 15	Var. Ce Carlo
16	Loren A. Cochran, WSBA No. 32773
17	Attorney for Plaintiff
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19	4812-2795-}381, v. 1
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30	COMPLAINT FOR DAMAGES - Page 12 of 12 MCLAUGHLIN AND ASSOC., INC  15 Oregon Ave., Suite 210  Tacosta, WA 98409 (253) 476-2653; (253) 476-2298 fax

# EXHIBIT 3

# Case 3:13-cv-06005-BHS Document 1 Filed 11/21/13 Page 22 of 50

E-FILED IN COUNTY CLERK'S OFFICE PIERCE COUNTY, WASHINGTON

October 23 2013 11:41 AM

KEVIN STOCK COUNTY CLERK NO: 13-2-12806-9

# RECEIVED

OCT 2 4 2013

Lewis Brisbois Bisgaard & Smith, LLP

# SUPERIOR COURT OF THE STATE OF WASHINGTON IN AND FOR THE COUNTY OF PIERCE

LAURA WOODWARD, individually,

No. 13-2-12806-9

Plainti

Plaintiff,

AMENDED COMPLAINT FOR DAMAGES

VS.

1.1

AMERICAN FAMILY MUTUAL INSURANCE COMPANY, a foreign corporation,

Defendant.

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COMES NOW Plaintiff Laura Woodward, by and through Ashton K. Dennis and McLaughlin & Associates, and Loren A. Cochran, and Pfau Cochran Vertetis Amala, PLLC, and files this Complaint for Damages against the Defendants, alleging and averring as follows:

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## I. INTRODUCTION

Plaintiff Woodward purchased an automobile insurance policy through American

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Family Mutual Insurance Company ("American Family"). American Family promised to make Woodward's insurance experience easy and convenient and to ensure there were no

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unwelcome surprises -- especially in her time of need. Unfortunately, in her time of need,

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AMENDED COMPLAINT FOR DAMAGES - Page 1 of 11

after being struck by an underinsured motorist, she was denied adequate benefits under her policy and all her insurance coverage with American Family, including her homeowner's policy, was ultimately terminated by the insurer. Ms. Woodward was forced to submit to litigation and prior to arbitration was offered absolutely nothing by American Family despite the existence and plain language of her insurance contract. The arbitrator found Ms. Woodward's damages to be \$243,312.32, which is an amount far in excess of the applicable under/uninsured motorist policy.

## II. JURISDICTION AND PARTIES

- 2.1 Plaintiff Laura Woodward is a resident of Pierce County, Washington.
- 2.2 The defendant, American Family is Ms. Woodward's insurance company and a foreign corporation doing business in Pierce County, Washington. At all times relevant hereto, the defendant insurance company was engaged in the business of insurance in the State of Washington.
- 2.3 This court has jurisdiction over the parties and subject matter of this action and venue is proper within this county.

#### III. FACTS FORMING THE BASIS FOR RELIEF

3.1 Prior to January 10, 2010, Ms. Laura Woodward and her husband purchased an automobile insurance policy through Defendant American Family Insurance (American Family). Part of the policy, policy number 1976-8368-02-06-FPPA-WA, included personal Medical Expenses Coverage and Under-Insured/Un-Insured Motorist Coverage (UMBI). The policy's effective date ran from December 2, 2009 to June 2, 2010. The policy is attached as Exhibit A to this Complaint.

AMENDED COMPLAINT FOR DAMAGES - Page 2 of 11

30

- 3.2 On January 10, 2010 Ms. Woodward was lawfully operating her vehicle which was covered by the above-referenced auto policy. She was struck by an under-insured motorist and injured. She applied for her personal Medical Expenses benefits as an insured of American Family shortly after the collision.
- 3.3 The motor vehicle collision caused severe and permanent injuries to Ms. Woodward. She required significant medical care which lasted well over a year and totaled more than \$32,000.00.
- 3.4 Mr. Eric Blow was an employee of American Family, assigned to adjust Ms. Woodward's personal Medical Expenses claim for benefits. All actions Eric Blow took were done within the course and scope of his employment and for the betterment of American Family. American Family was required by contract to pay for medically necessary treatment for bodily injury sustained in the January 10, 2010 motor vehicle collision up to \$25,000.00 under Ms. Woodward's personal Medical Expenses coverage. On January 31, 2011, Mr. Blow agreed to pay \$13,313.87 of Ms. Woodward's personal medical expenses, but denied any further coverage despite Woodward's insurance contract with American Family. Three years after Mr. Blow denied any and all further coverage above the initial \$13,313.87 payment, American Family ultimately agreed that at least \$28,372.94, as referenced in Exhibit B and C, in medical care was medically necessary for the injuries Ms. Woodward suffered in the January 10, 2010 collision. Despite conceding the appropriateness of the services, American Family only paid the remaining \$11,686.13 in reasonable and medically necessary expenses after the arbitration award in excess of Ms. Woodward's coverage limits was determined.

AMENDED COMPLAINT FOR DAMAGES - Page 3 of 11 McLaughlin and Assoc., INC 15 Oregon Ave., Suite 210 Tacoma, WA 98409 (253) 476-2653; (253) 476-2298 fax

- 3.5 In the time that American Family denied Ms. Woodward's claims for personal Medical Expenses under her insurance contract, Ms. Woodward's medical providers filed suit for unpaid balances which should have been paid by American Family. Instead of adhering to its promise, American Family chose not to pay the benefits for which their insured legally contracted. Ms. Woodward's credit was harmed as a direct result of American Family's refusal to pay the medical balances which American Family was required to pay under the insurance contract.
- 3.6 Ms. Woodward was struck by tortfeasor who held \$50,000.00 in bodily injury liability limits. After making a demand for policy limits, the tortfearsor's insurance company tendered the \$50,000.00.
- 3.7 On August 17, 2011, recognizing the severity and the permanency of her injuries, Ms. Woodward submitted a demand package to American Family which included her medical expenses to date, her medical records, and other supporting documentation. Ms. Woodward demanded American Family tender the policy limits of \$100,000.00 through her UIMBI coverage.
- 3.8 On November 11, 2011, American Family responded to Ms. Woodward's policy limits demand. American Family indicated, "[w]e are willing to waive our Med Expense subrogation in the amount paid of \$13,313.87 but we see no exposure under your clients Underinsured Motorist Bodily Injury Coverage."
- 3.9 On January 25, 2012, American Family was provided with Ms. Woodward's surgical consultation with Dr. Richard Whons. The correspondence indicated Ms. Woodward

AMENDED COMPLAINT FOR DAMAGES - Page 4 of 11

was in need of cervical surgery. Ms. Woodward again demanded the policy limits of \$100,000.00.

- 3.10 On February 8, 2012, American Family responded to Ms. Woodward's second policy limits demand. American Family indicated its, "... position has not changed regarding a claim under the Under Motorist Bodily Injury part of the policy." American Family denied the policy limits demand. At or about this time, American Family also terminated all of Ms. Woodward's existing insurance contracts with the company including all auto and homeowners' policies.
- 3.11 On March 28, 2012, Ms. Woodward once again demanded the policy limits of her UIMBI coverage.
- 3.12 On June 13, 2012 a voicemail was left with Kim Lovest at American Family requesting a response to the March 28, 2012 letter.
- 3.13 As of June 21, 2012, no response was made to the March 28, 2012 letter or June13, 2012 voicemail and a letter was faxed to American Family requesting a response.
- 3.14 On June 26, 2012, no response had been made to the June 13, voicemail or the June 21, letter and another letter was sent demanding a response.
- 3.15 On August 24, 2012, counsel for Ms. Woodward indicated that she would like to resolve this claim prior to arbitration.
- 3.16 On May 14, 2013, counsel for Ms. Woodward inquired as to whether American Family would be making any payment of benefits prior to arbitration. But, no additional benefits were paid by American Family prior to arbitration.

AMENDED COMPLAINT FOR DAMAGES - Page 5 of 11

- 3.17 Prior to arbitration American Family made no other offers or attempts at settlement. Ms. Woodward was eventually awarded \$243,312.32 at arbitration which was significantly higher than the "zero" offer of American Family.
- 3.18 All employees, adjusters, managers, directors and or staff mentioned herein were working within the course and scope of their employment with American Family.

#### IV. CAUSES OF ACTION

# FIRST CLAIM - BREACH OF FIDUCIARY DUTIES

- 4.1 Plaintiff re-alleges and incorporates all facts as detailed above.
- 4.2 Defendant insurance company, American Family, owed fiduciary duties to its insured, Laura Woodward, including but not limited to the duty to promptly investigate any claim, the duty to promptly resolve disputes with its insureds, the duty not to unreasonably increase the costs incurred by its insureds in resolving insurance claims, and the duty not to force insureds to file lawsuits in order to receive benefits.
- 4.3 American Family breached the fiduciary duties owed by repeatedly denying Ms. Woodward's appropriate claims for benefits and as a result of the repeated denials, directly and proximately caused damage to Ms. Woodward.

# SECOND CLAIM - VIOLATION OF CONSUMER PROTECTION ACT

- 4.4 Plaintiff re-alleges and incorporates all facts as detailed above.
- 4.5 The business of insurance, as well as all acts and practices of insurers, agents and attorneys, are subject to the Washington State Consumer Protection Act, RCW 19.86 and subsequent sections.
  - 4.5 Washington's Consumer Protection Act requires that all insurers abstain from

AMENDED COMPLAINT FOR DAMAGES - Page 6 of 11

unfair or deceptive practices or acts.

- 4.6 An insurer's breach of its duty of good faith constitutes an unfair business act and gives rise to a cause of action for violation of the WCPA.
- 4.7 As Washington courts have established, insurance claims handling constitutes commerce that impacts the public interest, in the insurance context the insured must simply prove that it was injured by an unfair practice of its insurer in order to establish a WCPA claim.
- 4.8 The defendant, American Family, by and through its agents and employees, has engaged in deceptive and unfair acts and practices, including but not limited to: 1) Failing to acknowledge and act reasonably promptly upon communications with respect to claims arising under insurance policies; 2) Refusing to pay claims without conducting a reasonable investigation; 3) Not attempting in good faith to effectuate prompt, fair and equitable settlements of claims in which liability has become reasonably clear; 4) Compelling insureds to institute or submit to litigation, arbitration, or appraisal to recover amounts due under an insurance policy by offering substantially less than the amounts ultimately recovered in such actions or proceedings; 5) Failing to promptly settle claims, where liability has become reasonably clear, under one portion of the insurance policy coverage in order to influence settlements under other portions of the insurance policy coverage.
- 4.9 Defendant American Family's deceptive and unfair acts and practices as outlined above have directly and proximately resulted in damages to its insured, Plaintiff Laura Woodward.

#### THIRD CLAIM -INSURANCE FAIR CONDUCT ACT VIOLATION

4.10 Plaintiff re-alleges and incorporates all facts as detailed above.

AMENDED COMPLAINT FOR DAMAGES - Page 7 of 11

- 4.11 Defendant American Family's actions and omissions as detailed above and below in refusing to fully honor the terms of Plaintiff Laura Woodward's personal Medical Expenses contract and her UIM/UM contract, an in failing to promptly pay benefits due is in violation of the Insurance Fair Conduct Act ("IFCA").
  - 4.12 Defendant has unreasonably denied payments in violation of IFCA.
- 4.13 More than twenty (20) days have elapsed since Plaintiff Laura Woodward through counsel provided written notice of the basis for the cause of action (IFCA claim) to the defendant through its representative legal counsel and to the Office of the Insurance Commissioner as required by law. Defendant American Family has failed to resolve the basis for the action within that time period.
- 4.14 Plaintiff Laura Woodward is entitled to recover all statutory relief including treble actual damages, together with the costs of the action, including reasonable attorney's fees and litigation costs.

### **FOURTH CLAIM - NEGLIGENCE**

- 4.15 Plaintiff re-alleges and incorporates all facts as detailed above.
- 4.16 The defendant insurance company had a contract for insurance with Plaintiff Laura Woodward.
- 4.17 As a result of that contract of insurance, American Family had certain duties to its insured, including the duty to act reasonably and exercise ordinary care. Plaintiff Laura Woodward is an insured of Defendant American Family.
- 4.18 Defendant American Family failed its duties owed to its insured Plaintiff Laura Woodward by failing to act reasonably and exercise ordinary case failing to investigate, and fairly

AMENDED COMPLAINT FOR DAMAGES - Page 8 of 11

(253) 476-2653; (253) 476-2298 fax

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- 7.5 That the court award plaintiff reasonable attorney fees under IFCA, in the amount which will be proven at the time of trial;
- 7.6 That the court award plaintiff lodestar attorney fees, in the amount which will be proven at the time of trial;
- 7.7 Judgment in favor of plaintiff for her reasonable attorney fees and costs incurred in this action, pursuant to the CPA, the authority of *Olympic Steamship Company v. Centennial Insurance Company*, 117 Wash.2d 37, 811 P.2d 637 (1991), and/or any other applicable legal or equitable principals;
- 7.8 Judgment in favor of plaintiff for punitive damages according to all applicable laws including those of other jurisdictions;
  - 7.9 And all further relief as the court deems just and equitable.

DATED this 23rd day of October, 2013.

MCUAUGHLIN & ASSOCIATES, INC.

Ashton K. Dennis, WSBA No. 44015 Attorney for Plaintiff

PFAU COCHRAN VERTETIS AMALA, PLLC

Loren A. Cochran, WSBA No. 32773

Attorney for Plaintiff

AMENDED COMPLAINT FOR DAMAGES - Page 11 of 11

# EXHIBIT 4

331-014279

# SUPERIOR COURT OF THE STATE OF WASHINGTON IN AND FOR THE COUNTY OF PIERCE

LAURA WOODWARD, individually,	)
Plaintiff,	) NO. 13-2-12806-9
	)
vs.	) INSURANCE COMMISSIONER'S
	) CERTIFICATE OF SERVICE
AMERICAN FAMILY MUTUAL	)
INSURANCE COMPANY, a foreign	)
corporation, ERIC K. BLOW,	)
individually,	)
	)
Defendant.	)

THIS IS TO CERTIFY that the Insurance Commissioner of the State of Washington has accepted service of

### SUMMONS; COMPLAINT FOR DAMAGES; ORDER SETTING CASE SCHEDULE

in the above-mentioned matter on SEPTEMBER 18, 2013, on behalf of and as statutory attorney for

#### AMERICAN FAMILY MUTUAL INSURANCE COMPANY

an authorized foreign or alien insurer, and has forwarded a duplicate copy thereof to said insurance company pursuant to RCW 48.02.200 and 48.05.200.

ISSUED AT OLYMPIA, WASHINGTON: SEPTEMBER 18, 2013

Certification No: 9171999991703311707315

MIKE KREIDLER

Insurance Commissioner

Sarah Gosney

Service of Process Coordinator

Original to:

ASHTON K. DENNIS THE LAW OFFICES OF MCLAUGHLIN & ASSOCIATES, INC. A 15 OREGON AVENUE SUITE 210

**TACOMA, WA 98409** 

Copy to:

AMERICAN FAMILY MUTUAL INSURANCE COMPANY DAVID C HOLMAN 6000 AMERICAN PARKWAY MADISON, WI 53783-0001

Tracker ID: 10506

# EXHIBIT 5

E-FILED
IN COUNTY CLERK'S OFFICE
PIERCE COUNTY, WASHINGTON

# IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON IN AND FOR PIERCE COUNTY

September 09 2013 3:53 PM

KEVIN STOCK

LAURA WOODWARD

Plaintiff(s)

Vs.

AMERICAN FAMILY MUTUAL INSURANCE COMPANY

Defendant(s)

No. 13-2-12806-9

COUNTY CLERK NO: 13-2-12806-9

ORDER SETTING CASE SCHEDULE

Type of case:

TTO

Estimated Trial (days):

Track Assignment:

Complex

Assignment Department:

06

Docket Code:

ORSCS

Confirmation of Service	10/21/2013
Confirmation of Joinder of Parties, Claims and Defenses	3/10/2014
Jury Demand	3/17/2014
Status Conference (Contact Court for Specific Date)	Week of 4/21/2014
Plaintiff's/Petitioner's Disclosure of Primary Witnesses	6/2/2014
Defendant's/Respondent's Disclosure of Primary Witnesses	6/30/2014
Disclosure of Rebuttal Witnesses	10/13/2014
Deadline for Filing Motion to Adjust Trial Date	11/3/2014
Discovery Cutoff	12/22/2014
Exchange of Witness and Exhibit Lists and Documentary Exhibits	1/12/2015
Joint Statement of Evidence	1/26/2015
Deadline to file Certificate or Declaration re: Alternative Dispute Resolution (PCLR 16 (c)(3))	1/26/2015
Deadline for Hearing Dispositive Pretrial Motions	1/26/2015
Pretrial Conference (Contact Court for Specific Date)	Week of 2/16/2015
Trial	3/9/2015 9:00

# Unless otherwise instructed, ALL Attorneys/Parties shall report to the trial court at 9:00 AM on the date of trial.

#### NOTICE TO PLAINTIFF/PETITIONER

If the case has been filed, the plaintiff shall serve a copy of the Case Schedule on the defendant(s) with the summons and complaint/ petition: Provided that in those cases where service is by publication the plaintiff shall serve the Case Schedule within five (5) court days of service of the defendant's first response/appearance. If the case has not been filed, but an initial pleading is served, the Case Schedule shall be served within five (5) court days of filing. See PCLR 3.

#### NOTICE TO ALL PARTIES

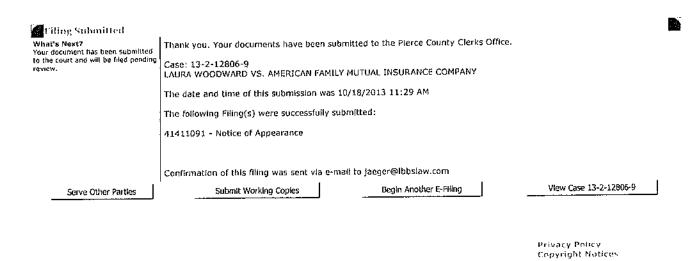
All attorneys and parties shall make themselves familiar with the Pierce County Local Rules, particularly those relating to case scheduling. Compliance with the scheduling rules is mandatory and failure to comply shall result in sanctions appropriate to the violation. If a statement of arbitrability is filed, PCLR 3 does not apply while the case is in arbitration.

Dated: September 9, 2013

Judge JACK NEVIN

Department 06

## EXHIBIT 6



## 

DATED this 17th day of October, 2013 LEWIS BRISBOIS BISGAARD & SMITH LLP By: Michael A Faeger, WA Bar No. 23166 William W. Simmons, WA Bar No.35604 2101 Fourth Avenue, Suite 700 Scattle, Washington 98121 Attorneys for Defendants 

DECLARATION OF SERVICE

I hereby declare under penalty of perjury under the laws of the State of Washington that I caused a true and correct copy of **Notice of Appearance** to be served via the methods stated below on the 17<sup>th</sup> day of October, 2013 on the following counsel/party of record:

### PARTY/COUNSEL

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Ashton K. Dennis McLaughlin & Associates 15 Oregon Avenue, Suite 210 Tacoma, WA 98409 Fax: 253-476-2298

Loren A. Cochran Pfau Cochran Vertetis Amala, PLLC 911 Pacific Avenue, Suite 200 Tacoma, WA 98402 253-627-0654

## METHOD OF DELIVERY

- via U.S. Mail, first class, postage prepaid, mailed on the date above
- uia Legal Messenger Hand Delivery
- ⋈ via Facsimile
- ⊂ Federal Express
- □ via E-mail

Lisa Blakeney

4811-1520-9238.1 NOTICE OF APPEARANCE

# EXHIBIT 7

Privacy Policy Copyright Notices

1 2 3 4 5 6 IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON 7 FOR PIERCE COUNTY 8 No. 13-2-12806-9 LAURA WOODWARD, individually, 9 ANSWER TO AMENDED COMPLAINT Plaintiff. FOR DAMAGES 10 11 VS. AMERICAN FAMILY MUTUAL 12 INSURANCE COMPANY, a foreign corporation, ERIC K. BLOW, individually, 13 14 Defendants. 15 Defendants, by and through their attorneys of record, Lewis Brisbois Bisgaard & Smith, 16 and Michael A. Jaeger, and in answer to Plaintiff's Amended Complaint, alleges and states as 17 follows: 18 I. INTRODUCTION F.1 Admit that Plaintiff purchased an automobile insurance policy through American 19 Family Mutual Insurance Company and that the arbitrator awarded \$243,312.32. All other 20 allegations contained in Paragraph 1.1 are denied. 21 JURISDICTION AND PARTIES H. 22 Admit. 2.1 23 2.2 Admit. 24 2.3 Admit. III. FACTS FORMING THE BASIS FOR RELIEF 25 Admit. 3.1 26 27 LEWIS BRISBOIS BISGAARD & SMITH LLP

ANSWER TO AMENDED COMPLAINT I

4851-5327-9254.1

LEWIS BRISBOIS BISGAARD & SMITH LLP 2101 Fourth Avenue, Suite 700 Seattle, Washington 98121 206-436-2020 206-436-2030 Fax

All other

4851-5327-9254.1

#### SECOND CLAIM- VIOLATION OF CONSUMER PROTECTION ACT 1 Defendant re-alleges and incorporates the above paragraphs as though fully set 4.4 2 forth herein. 3 Denied. 4.5 4 4.6 Denied. 5 4.7 Denied. 6 4.8 Denied. 4.9 Denied. 7 4.10 Denied. 8 THIRD CLAIM- INSURANCE FAIR CONDUCT ACT VIOLATION 9 Defendant re-alleges and incorporates the above paragraphs as though fully set 4.11 10 forth herein. 11 Denied. 4.12 12 Denied. 4.13 Denied for lack of sufficient information. 13 4.14 Denied. 4.15 14 FOURTH CLAIM- NEGLIGENCE 15 Defendant re-alleges and incorporates the above paragraphs as though fully set 4.16 16 forth herein. 17 Admit. 4.17 18 Admit that Laura Woodward had an insurance policy with American Family. 4.18 Further admit that American Family had duties proscribed by law and the applicable insurance 19 policy, subject to the terms and conditions of the policy and not otherwise. All other allegations 20 in Paragraph 4.17 are denied. 21 Denied. 4.19 22 4.20 Denied. 23 FIFTH CLAIM-BREACH OF CONTRACT 24 Defendant re-alleges and incorporates the above paragraphs as though fully set 4.21 25 forth herein. Admit. 4.22 26 Denied for lack of sufficient information. 4.23 27 LEWIS BRISBOIS BISGAARD & SMITH LLP 2101 Fourth Avenue, Suite 700 ANSWER TO AMENDED COMPLAINT 3

4851-5327-9254.1

Seattle, Washington 98121 206-436-2020 206-436-2030 Fax

1	4.24	Denied.		
2	4.25	Denied.		
3	4.26	Denied.		
4	SIXTH CLAIM- BAD FAITH			
5	ii			
6	forth herein.	Admit that American Family had dutie	es proscribed by law and the applicable	
7	insurance policy, subject to the terms and conditions of the policy and not otherwise. All other			
8	allegations in Paragraph 4.27 are denied.			
9	-	Denied.		
10	4.30	Denied.		
	V. JURY DEMAND			
11	5.1	Paragraph 5.1 does not call for an answe	r.	
12		VI. PUNITIVE	DAMAGES	
13	6.1	Denied.		
14	VII. PRAYER FOR RELIEF			
15	Defendant denies all of Plaintiff's prayer for relief, including Paragraphs 7.1 through 7.9.			
16	AFFIRMATIVE DEFENSES			
17	Discovery and investigation may reveal that one or more of the following defenses may			
18	be applicable to this matter. American Family therefore asserts those possible defenses, which			
19	will be withdrawn if warranted by the facts or law.			
20	1.	At all times Defendant American Fami	ly acted in compliance with Washington	
21	law and in compliance with the terms and conditions of Ms. Woodward's insurance policy with			
	American Family.			
22		- ·	pay UIM benefits cannot exceed the	
23	applicable policy limits.			
24	3. If Plaintiff suffered any damages, recovery is reduced or barred by Plaintiff's failure to mitigate such damages.			
4. The injuries and damages, if any, claimed by Plaintiff were		d by Plaintiff were proximately caused by		
26				
27	RCW 4.22.070;			

& SMFTH LLP te 700 206-436-2020 206-436-2030 Fax

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The insurance policy issued to Plaintiff by American Family is subject to various 5. limitations, including but not limited to, limits of coverage. Any liability of American Family to the Plaintiff is therefore restricted to and by said limits, terms, and provisions of the policy.

- American Family is not liable to the extent that Plaintiff's injuries and damages, if 6. any, were proximately caused by the conduct of third-parties and/or entities over which American Family had no control.
- To the extent that Plaintiff's injuries and damages are due to the fault of others, 7. fault must be apportioned pursuant to RCW 4.22 et. seq.
- Plaintiff's claims and/or recovery may be barred by the doctrines of estoppel and 8. waiver.
- Plaintiff's claims, including but not limited to Plaintiff's claims for damages, benefits, bad faith, violation of the Consumer Protection Act, and violation of the Insurance Fair Conduct Act fail to state a cause of action for which relief may be granted.
- At all times material hereto, Defendant's actions have been reasonable and in compliance with Washington law and the subject insurance policy. As such, Plaintiff's extracontractual claims are without merit.
- Should the Plaintiff recover any damages which duplicate in any way or extent 11. payments that he has received from the Defendant regarding the loss, Defendant is entitled to a setoff or offset in the amount of any money paid to the Plaintiff.
- 12. American Family expressly reserves the right to amend this answer, including the right to include and/or identify additional affirmative defenses, cross claims, and non-parties at fault as circumstances and discovery may warrant.

WHEREFORE, Defendants pray for judgment:

- 1. Dismissing Plaintiff's amended complaint with prejudice and with costs;
- 2. For all Defendants' attorneys fees and costs incurred herein; and
- For such further relief as the court deems just and equitable. 3.

SUBMITTED THIS 6th day of November, 2013.

Michael A. Jaeger, WA Bar No. 23166 William W. Simmons, WA Bar No. 35604 2101 Fourth Avenue, Suite 700

LEWIS BRISBOIS BISGAARD & SMITH LLP

Seattle, Washington 98121 Attorneys for Defendants

ANSWER TO AMENDED COMPLAINT 6

LEWIS BRISBOIS BISGAARD & SMITH LLP 2101 Fourth Avenue, Suite 700 Seattle, Washington 98121 206-436-2020 206-436-2030 Fax

4851-5327-9254.1

#### DECLARATION OF SERVICE

I hereby declare under penalty of perjury under the laws of the State of Washington that I caused a true and correct copy of **Answer to Amended Complaint** to be served via the methods below on the 7<sup>th</sup> day of November, 2013 on the following counsel/party of record:

### PARTY/COUNSEL

Ashton K. Dennis 15 Oregon Ave, Ste 210 Tacoma, WA 98409 Attorney for Plaintiff

Loren A. Cochran Pfau Cochran Vertetis Amala, PLLC 911 Pacific Avenue, Suite 200 Tacoma, WA 98402 Attorney for Plaintiff

### METHOD OF DELIVERY

via 0.5. Maii, first class, postage prepaid
via Legal Messenger Hand Delivery
via Facsimile
via E-mail

Lisa Blakeney

ANSWER TO AMENDED COMPLAINT 7

LEWIS BRISBOIS BISGAARD & SMITH LLP 2101 Fourth Avenue, Suite 700 Scattle, Washington 98121 206-436-2020 206-436-2030 Fax

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